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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,153	09/23/2003	Mark C. Nicely	14522-004001	2854
26181	7590	10/26/2005	EXAMINER	
FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			BROCKETTI, JULIE K	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,153

Applicant(s)

NICELY ET AL.

Examiner

Julie K. Brocketti

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 26, 2005 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13, 15-25 and 27-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1, 9, 15, 19, 21 and 23 all recite some version of the following "...change a percentage of a wager amount..." It is unclear as to what the percentage amount to be applied to the progressive jackpot is being changed from. For example, is it being changed from a general fixed amount

for each gaming machine or what? Since it is unclear as to what the change is in reference to the claims are indefinite.

Claims 25 and 28 recites the limitation "calculating/calculate a percentage of a wager amount". There is insufficient antecedent basis for this limitation in the claim. Claim 9 on which claim 25 is dependent recites, "changing...a percentage of the wager amount..." Therefore, claim 25 needs to be amended to be consistent with claim 9. Similar situation for claim 28, which is dependent on claim 21.

The following is a quotation of the fourth paragraph of 35 U.S.C. 112:

A claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed.

Claims 11 and 18 are rejected under 35 U.S.C. 112, fourth paragraph, for failing to further limit the subject matter of a previous claim.

Claim 11 states, "...further comprising a plurality of gaming systems, wherein the percentage of the wager to be applied..." Claim 9 on which claim 11 is dependent recites "a first gaming system" and "a second gaming system", i.e. two gaming systems. It is noted that "a plurality of gaming systems" can be two, which is recited in the independent claim. Therefore, claim 11 adds no further narrower limitation with respect to the claims. It actually broadens the claim language instead of narrowing it.

Claim 18 states, "...wherein the gaming systems have different progressive payout parameters." Claim 18 is dependent on claim 17 which is dependent on claim 1 which states "...a first set of progressive payout parameters and the second gaming system including a second set of progressive payout parameters that is different from the first set of progressive payout parameters. Therefore, claim 18 recites nothing new than that of claim 1, since both claims state that the payout parameters are different.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 8-12, 14, 16 and 19-29 are rejected under 35

U.S.C. 102(b) as being anticipated by Tracy, U.S. Patent No. 5,116,055.

Tracy discloses a system for managing a progressive jackpot. A progressive management device includes an interface (See Tracy Fig. 1). A progressive engine is used for maintaining a progressive (See Tracy col. 3 lines 22-25). The progressive management device is coupled by the interface to a first gaming system and a second gaming system (See Tracy Fig. 1). The first gaming

system includes a first set of progressive payout parameters and the second gaming system includes a second set of progressive payout parameters that is different from the first set of progressive payout parameters (See Tracy col. 2 lines 10-22; Fig. 2) [claims 1, 21, 23]. For example, a player may win the progressive jackpot by playing poker, or the player may win the jackpot by playing a three-reel slot. Each of these two games has different parameters that need to be met in order to win the progressive jackpot. The progressive management device is operable to, in response to receiving a wager amount, change a percentage of the wager amount to be applied to the progressive jackpot such that a product of a wager amount necessary to participate in a progressive jackpot, an odds of winning the progressive jackpot and the percentage of the wager amount to be applied to the progressive jackpot is equal for the first and second gaming system (See Tracy col. 2 lines 32-36; col. 3 lines 57-65; col. 4 lines 20-48) [claims 1]. The progressive management device further comprises an analysis engine operable to examine a plurality of gaming systems and progressive payout parameters and an integrator operable to integrate progressive games having different progressive payout parameters into a single progressive jackpot (See Tracy col. 2 lines 10-41) [claims 2, 10, 22]. The progressive management device is coupled to the gaming systems through a network (See Tracy Figure 1) [claim 3]. The progressive management device is operable to provide information on the progressive game to user gaming interfaces, wherein the information includes the value of the

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Art Unit: 3713

progressive jackpot (See Tracy Fig. 1; col. 3 lines 25-30) [claim 6]. The progressive is reset when a user attains a progressive (See Tracy col. 3 lines 35-38) [claims 8]. Torango further discloses a method for including systems having different progressive payout parameters into the same progressive jackpot. A progressive game is initiated (See Tracy col. 3 lines 12-22). A first gaming system and a second gaming system are provided to participate in a progressive jackpot (See Tracy Fig. 1). The first gaming system has a first set of progressive payout parameters and the second gaming system has a second set of progressive payout parameters that is different from the first set of payout parameters (See Tracy col. 2 lines 10-22; Fig. 2). A percentage of the wager amount to be applied by each gaming machine to the progressive is changed in response to a received wager amount. The changing is based on the first and second sets of progressive payout parameters (See Tracy col. 2 lines 32-36; col. 3 lines 57-65; col. 4 lines 20-48) [claim 9]. For example, it is based in part on the Hit Frequency and the number of coins inserted to play the progressive. The percentage of the wager amount to be applied to each gaming system is selected/adjusted such that the product of progressive payout parameters of the wager amount necessary to participate in the progressive jackpot, the odds of winning the progressive jackpot, and the percentage of the wager amount to be applied to the progressive jackpot are equal for each gaming system (See Tracy col. 2 lines 32-36; col. 3 lines 57-65; col. 4 lines 20-48) [claims 9, 11, 14, 15, 19, 21, 23]. The progressive payout parameters include game odds (See

Tracy Fig. 2; col. 2 lines 44-45) [claim 12]. The system further includes a progressive management device coupled to a gaming server. The gaming server including two or more gaming stations, wherein a first of the gaming stations includes a first set of payout parameters and a second station includes a second set of progressive payout parameters that is different from the first set of payout parameters (See Tracy Fig. 1; col. 2 lines 10-22; col. 3 lines 12-22) [claim 14]. Furthermore, Tracy discloses a method for validating progressive payout parameters in gaming systems participating in a progressive jackpot. The progressive parameters of the gaming system are validated including verifying that game odds and a payoff are consistent and within predetermined criteria and including validated gaming systems in the progressive jackpot (See Torango ¶0100-¶0102) [claim 16]. A method for determining a progressive outcome is disclosed. Data is received at a progressive management device concerning a wager amount placed by a user of a participating gaming system. The percentage of the wager to be applied to a progressive jackpot is changed in response to the received data based on progressive payout parameters analysis. The progressive payout parameters including game odds and wager amounts (See Tracy Fig. 2). The progressive jackpot is incremented by the selected percentage of the wager amount (See Tracy col. 4 lines 13-41). A random number generator calculation is executed using the odds from the gaming system progressive payout parameters. The results of the random number generator calculation are transmitted to a participating gaming system (See

Tracy Fig. 2) [claims 19, 23]. A percentage of a wager to be applied to a progressive jackpot is determined through retrieval of previous analysis results from a database (See Tracy Fig. 2; col. 4 lines 12-41) [claim 20]. It is inherent that Tracy uses a computer program product stored on a computer readable medium to execute the aforementioned steps on a programmable processor (See Tracy Fig. 1) [claims 21 & 23]. A first component is operable to identify a source gaming system associated with a received wager amount. A second component is operable to select a percentage of the received wager amount to apply to the progressive jackpot and to apply the selected percentage of the wager amount to the progressive jackpot (See Tracy col. 3 lines 12-67) [claims 24, 26]. Calculating a percentage of a wager amount to be applied to the progressive jackpot for each received wager amount includes identifying a source gaming system of the received wager amount, selecting a percentage of the received wager amount to apply to the progressive jackpot and applying the percentage of the wager amount to the progressive jackpot (See Tracy col. 4 lines 12-41) [claims 25, 27-29].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 13, 15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy in view of Torango, U.S. Patent Application Publication No. 2003/0060279 A1. As mentioned above, Torango discloses that one or more gaming systems are included in the progressive jackpot by changing the percentage of a wager amount applied to the progressive jackpot for each gaming system such that a product of a wager amount to participate in a progressive jackpot, an odds of winning the progressive jackpot, and a percentage of the wager amount to be applied to the progressive jackpot is equal to a constant (See Tracy col. 4 lines 12-48). For each received wager amount, a source of the gaming system of the received wager amount is identified, a percentage of the received wager amount to apply to the progressive jackpot is selected and the percentage of the wager amount is applied to the progressive jackpot (See Tracy col. 3 lines 45-67) [claim 15]. The gaming systems have different progressive payout parameters (See Tracy col. 2 lines 42-51) [claim 18].

Tracy lacks in disclosing a currency conversion device and that the progressive payout parameter includes a currency type. Torango teaches of a progressive management device including a currency conversion device for converting data provided from one of the gaming systems into a predetermined currency (See Torango ¶0124-¶0125) [claim 4]. The progressive payout

Art Unit: 3713

parameter furthermore, includes a currency type (See Torango ¶0129) [claim 13]. Torango further teaches of a server, which is a shared computer on the local area network and may be used as the gatekeeper for controlling data. As seen in Figure 1, the system can be considered to have a game server, item 102. Torango further discloses a method for including gaming systems having different currency types to a progressive. Input is received from one or more gaming servers seeking participation in a progressive jackpot. The characteristics of each gaming system are analyzed including the currency type of the gaming system. The currency type of each gaming system is converted into a standard currency (See Torango ¶0129) [claim 15]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the device of Torango to accept different currencies so that players throughout the world could play the gaming machine without being hindered by having to first convert their currency into one standard unit. By allowing a gaming device to accept multiple currencies, the gaming device can be implemented throughout the world without having to be altered and therefore more people could play the game.

While Tracy does disclose a computer network and the controller can be considered a server, the system lacks in disclosing a plurality of servers. Torango teaches of a system that includes a plurality of gaming systems including a first and second gaming server (See Torango, Fig. 1 items 103A-C can be considered servers). A progressive management server is coupled

Art Unit: 3713

through a network to the first gaming server and the second gaming server, the first gaming server belongs to a first enterprise and the second gaming server belongs to a second enterprise. Each enterprise of the first and second enterprises include one or more gaming systems being coupled to one of the first or the second gaming servers (See Torango Fig. 1) [claim 17]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include multiple servers connected to the gaming machines. By including more servers, more gaming machines can be connected to the progressive jackpot and more players would have the chance to win the jackpot. Furthermore, the jackpot would be larger since more players are competing for it, which would make the game more enjoyable to players.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy in view of Torango '279 in view of Torango, U.S. Patent No. 6,241,608 B1. Torango '279 lacks in disclosing that the currency conversion is performed in real-time. Torango '608 teaches that the currency conversion is performed in real-time (See Torango '608 col. 18 lines 52-54) [claim 5]. For example, the conversion is performed with the updated currency exchange rates. It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform the currency exchange rates of Torango '279 in real time so that accurate exchange rates are used. By using accurate up to the minute exchange rates, the players and the casino benefit from using the correct rates so that no one is disadvantaged by using invalid rates.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy in view of Kelly et al., U.S. Patent No. 6,454,648 B1. Tracy lacks in disclosing that the information is provided to the user gaming interfaces in real-time. Kelly teaches of a progressive game system in which information is provided to the user gaming interfaces in real-time (See Kelly col. 15 lines 58-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the information in real-time in the invention of Tracy. By providing the information in real-time, the player is aware of the current status of the game and can then wager accordingly. Furthermore, the player is kept updated as to the current jackpot value, which may interest the player in continuing to play the game.

Response to Amendment

It has been noted that claims 1, 9, 14, 15, 19, 21 and 23 have been amended.

Response to Arguments

Applicant's arguments, filed July 26, 2005, with respect to the rejection(s) of the claim(s) under Torango '279 have been fully considered and are persuasive with respect to the limitations concerning changing a percentage of the wager amount to be applied to the progressive jackpot. Therefore, the rejection has been withdrawn. However, upon further

consideration, a new ground(s) of rejection is made in view of Tracy. It is also noted that Torango is now being used as a secondary reference with respect to some of the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K. Brockett whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


**JULIE BROCKETT
PRIMARY EXAMINER**